

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,

Defendants,

JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants, and

Q BURKE MOUNTAIN RESORT, HOTEL AND
CONFERENCE CENTER, L.P.,
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC

Additional Defendants

**NOTICE OF PROCEEDINGS TO APPROVE SETTLEMENT BETWEEN RECEIVER,
CASON PLAINTIFFS, EDWARD J. CARROLL, ESQ. (AND HIS LAW FIRMS), AND
MARK H. SCRIBNER, ESQ. (AND HIS LAW FIRM) AND BAR ORDER**

PLEASE TAKE NOTICE that Michael I. Goldberg, as the Court-appointed receiver (the “Receiver”) of the entities (the “Receivership Entities”) in the above-captioned civil enforcement

action (the “SEC Action”), has filed a request for approval of a proposed settlement between: a group of investors that filed an amended complaint in the United States District Court for the District of Vermont (“Cason Plaintiffs”); the Receiver; Edward J. Carroll, Esq. (“Carroll”), and his law firms, Carroll & Scribner, P.C. (“C&S”), Carroll & Associates, P.C. (“C&A”); and Mark H. Scribner, Esq., (“Scribner”) and his law firm, Primmer Piper Eggleston & Cramer, P.C. (“PPEC”) and, together with Carroll, C&S, C&A, and Scribner, the “Attorneys”). The proposed settlement settles all claims that were and could have been asserted against the Attorneys by the Cason Plaintiffs or the Receiver; such settlement is **expressly conditioned** on the Court approving the Settlement Agreement and including in the order approving such Settlement Agreement a provision permanently barring, restraining and enjoining any person or entity from pursuing claims, **including claims you may possess**, against any of the Attorney Released Parties relating to the SEC Action or any of the other EB-5 Actions, including but not limited to claims by on behalf of any Investor, by the Receiver, by the Receivership Entities (including their past and present general partners, owners, shareholders, officers, and directors), by any current or former clients of the Attorneys, or by any other person or entity (other than federal or state governmental bodies or agencies) that arise directly or indirectly in any manner whatsoever from the Attorneys’ activities, omissions, services or counsel in connection with the Receivership Entities, the Jay Peak Resort, AnC Bio, or the Burke Mountain Hotel (the “Bar Order”).¹

PLEASE TAKE FURTHER NOTICE that the material terms of the Settlement Agreement are that the Attorneys will collectively pay Eight Million Dollars (\$8,000,000.00), in exchange for broad releases from the Cason Plaintiffs, the Receiver, and the Receivership Entities, and the Bar Order.

PLEASE TAKE FURTHER NOTICE that the Settlement Agreement establish an Attorneys’ Fund to reimburse costs and compensate the attorneys for the Cason Plaintiffs.

PLEASE TAKE FURTHER NOTICE that copies of the Settlement Agreement; the Motion for (i) Approval of Settlement between Receiver, Cason Plaintiffs, Edward J. Carroll, Esq. (and His Law Firms), and Mark H. Scribner, Esq. (and His Law Firm); (ii) Approval of Form, Content, and Manner of Notice of Settlement and Bar Order; (iii) Entry of Bar Order; and (iv) Scheduling a Hearing; with Incorporated Memorandum of Law [D.E. 620] (the “Motion”); the proposed Bar Order; and other supporting and related papers, may be obtained from the Court’s docket in the SEC Action or from the website created by the Receiver (www.JayPeakReceivership.com). Copies of the Motion may also be obtained by email request to Kimberly Smiley at kimberly.smiley@akerman.com or by telephone by calling Ms. Smiley at 954-759-8929.

PLEASE TAKE FURTHER NOTICE that the final hearing on the Motion, at which time the Court will consider approval of the Settlement Agreement including the grant of the releases and the issuance of the Bar Order, is set by Zoom before the Honorable Darrin P. Gayles, the United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128, in Courtroom 11-1, at 10:00 a.m. on April 6, 2021 (the “Final Approval Hearing”). The link for the Zoom hearing will be circulated before the Final Approval Hearing.

¹ Defined terms used but not defined in this Notice are more fully defined in the Settlement Agreement.

Any objection to the Settlement Agreement, the Motion or any related matter, including, without limitation, entry of the Bar Order, must be filed, in writing, with the Court in the SEC Action, and served by email and regular mail, on: Michael I. Goldberg, Esq., Akerman LLP, The Main Las Olas, 201 East Las Olas Boulevard, Suite 1800, Fort Lauderdale, FL 33301, Email: michael.goldberg@akerman.com; Jeffrey C. Schneider, Esq., Levine Kellogg Lehman Schneider + Grossman, LLP, 201 S. Biscayne Blvd., 22nd Floor, Miami, FL 33131, Email: jcs@lklsg.com; Andrew H. Maass, Esq., Ryan Smith & Carbine Ltd., 98 Merchants Row, P.O. Box 310, Rutland, VT 05702, Email: ahm@rsclaw.com; Christopher D. Ekman, Esq. and William L. Gagnon, Esq., Heilmann, Ekman, Cooley & Gagnon, Inc., 231 South Union Street, P.O. Box 216, Burlington, VT 05402, Emails: cekman@healaw.com and wgagnon@healaw.com; Robert B. Hemley, Esq. and Daniel J. Martin, Esq., Gravel & Shea PC, 76 St. Paul Street, 7th Floor, Burlington, VT 05401, Emails: rhemley@gravelshea.com and dmartin@gravelshea.com; Russell D. Barr, Esq., Barr Law Group, 125 Mountain Road, Stowe, VT 05672, Email: russ@barrlaw.com, Louis D. D'Agostino, Esq., Cheffy Passidomo, 821 Fifth Avenue South, Naples, FL 34102, Email: lddagostino@napleslaw.com; and Sara E. Hanley, Esq., Hanley Law, 365 Fifth Avenue South, Suite 202, Naples, FL 34102, Email: hanley@finralawyer.org, **no later than March 8, 2021 (the “Objection Deadline”)**, and such objection must be made in accordance with the Court’s Order (I) preliminarily approving settlement between Receiver, Cason Plaintiffs, Edward J. Carroll, Esq. (and His Law Firms), and Mark H. Scribner, Esq. (and His Law Firm); (II) approving form and content of notice, and manner and method of service and publication; (III) setting deadline to object to approval of settlement and entry of bar order; and (IV) scheduling a hearing [D.E. 631] (the “Preliminary Approval Order”).

PLEASE TAKE FURTHER NOTICE that any person or entity failing to file an objection on or before the Objection Deadline and in the manner required by the Preliminary Approval Order shall not be heard by the Court. Those wishing to appear and present objections at the Final Approval Hearing must include a request to appear in their written objection. **If no objections are timely filed, the Court may cancel the Final Approval Hearing without further notice.**

This matter may affect your rights. You may wish to consult an attorney.

#